

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Andrew Schneider	Team: Team # 5	CCRB Case #: 200506391	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/07/2005 6:35 PM	Location of Incident: Corner of Irving Avenue and Linden Street	Precinct: 83	18 Mo. SOL 12/7/2006	EO SOL 12/7/2006	
Date/Time CV Reported Tue, 06/07/2005 7:49 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 06/07/2005 7:49 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Ronald Perez	31175	930943	083 PCT
2. POM Bryan Zuccaro	22037	931484	083 PCT
3. An officer			
4. Officers			
5. POM Thomas O'Connor	25606	916336	083 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT John Zegilla	02254	916953	083 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Thomas O'Connor	Force: Police Officer Thomas O'Connor used physical force against § 87(2)(b)	
B.POM Bryan Zuccaro	Force: Police Officer Bryan Zuccaro used physical force against § 87(2)(b)	
C.POM Ronald Perez	Force: Police Officer Ronald Perez used physical force against § 87(2)(b)	
D. Officers	Force: Officers used physical force against § 87(2)(b)	
E. An officer	Force: An officer struck § 87(2)(b) with a nightstick.	
F.POM Bryan Zuccaro	Force: Police Officer Bryan Zuccaro used physical force against § 87(2)(b)	

Synopsis

On June 7, 2005 at approximately 6:30PM an unidentified perpetrator fired a gun in the vicinity of the corner of Irving Avenue and Linden Street in Brooklyn. A large crowd of civilians assembled prior to the arrival of the police. Several officers, including Sergeant John Zegilla, Police Officer Thomas O'Connor, Police Officer Bryan Zuccaro and Police Officer Ronald Perez, responded to the job and found shell casings in the street. While attempting to establish a crime scene, Officer O'Connor observed § 87(2)(b) standing in the street, in the midst of the ballistic evidence. § 87(2)(b) ignored Officer O'Connor's instructions to exit the crime scene. Instead, § 87(2)(b) was speaking to § 87(2)(b) and § 87(2)(b), both of whom were attempting to drive on Linden Street. Officer O'Connor approached § 87(2)(b) and instructed him once again to leave the crime scene. The two became engaged in a physical altercation that resulted in Officer O'Connor tackling § 87(2)(b) to the ground (Allegation A). Officer Zuccaro assisted in restraining § 87(2)(b) with the use of force (Allegation B). Officer Perez assisted (Allegation C), as did several unidentified officers (Allegation D). One unidentified officer ran to § 87(2)(b) and proceeded to kick and strike him with a baton (Allegation E). After § 87(2)(b) was rearcuffed and walked next to an RMP, Officer Zuccaro shoved him against the side of the vehicle (Allegation F).

§ 87(2)(b) filed a complaint about the incident on June 7, 2005. § 87(2)(b) filed a duplicate complaint on June 8. § 87(2)(b)'s complaint was closed as a duplicate and the information therein combined with § 87(2)(b)'s complaint on June 14, 2005. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

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§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Summary of Complaint

Witness (§ 87(2)(b)):

§ 87(2)(b), a § 87(2)(b) old § 87(2)(b), filed his complaint by calling the CCRB's call processing system on June 7, 2005 (Enc. 7 a-b). § 87(2)(b) provided a telephone statement on June 17 (Enc. 9) and was interviewed at the CCRB on June 23 (Enc. 12 a-e) § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

On June 7, 2005, at approximately 6:30PM, § 87(2)(b) was driving a silver 2000 Infinity, which belongs to his girlfriend, § 87(2)(b). He was driving north on Linden Street in Brooklyn; § 87(2)(b) was sitting in the passenger seat of the vehicle. § 87(2)(b) stated that as he approached the intersection of Linden Street and Irving Avenue he noticed four marked NYPD vans, two marked patrol cars, police officers on the sidewalks and large crowds of civilians on all four corners of the intersection. § 87(2)(b) stated that as he slowly drove up Linden Street he noticed § 87(2)(b) a friend, crossing the street to his left.

§ 87(2)(b) called § 87(2)(b) over to the car from the sidewalk. As § 87(2)(b) approached the car, an officer identified through investigation as Officer O'Connor yelled, "Don't stop here, you've got to keep moving." The investigation has identified Officer O'Connor as the officer who initially interacted with § 87(2)(b) through Officer O'Connor admission. § 87(2)(b) vehicle was still moving as § 87(2)(b) was walking alongside of it. § 87(2)(b) was attempting to make a right turn onto Irving Avenue but was prevented from doing so immediately because of the congested traffic. § 87(2)(b) stated that he and § 87(2)(b) had made a few comments about recording music before § 87(2)(b) turned his head to the side briefly. § 87(2)(b) stated that § 87(2)(b) turned his head back towards him and looked as if he were about to say something when Officer O'Connor yelled, "Didn't I tell you to move?"

§ 87(2)(b) immediately afterwards saw an arm wrap around § 87(2)(b)'s shoulder. § 87(2)(b) then quickly fell to the pavement and Officer O'Connor fell on top of him. § 87(2)(b) stated that he could not see Officer O'Connor as he was approaching from behind § 87(2)(b); § 87(2)(b) was standing approximately six inches from § 87(2)(b) driver's side.

§ 87(2)(b) stated that Officer O'Connor got onto his knees and began moving his arms in such a way that it appeared the officer was punching § 87(2)(b). § 87(2)(b) however, stated that because § 87(2)(b) was on the ground so close to the vehicle, he could not see direct contact being made. Approximately five seconds after § 87(2)(b) had been tackled another officer, identified as Officer Perez, approached and instructed § 87(2)(b) not to move. § 87(2)(b) described the officer identified as Officer Perez as a 5'10" tall Hispanic male with a heavy build and a moustache; Officer Perez later confirmed his role. An unidentified officer described as a 32 year old, 180-pound, 5'9" tall white male with short brown hair ran towards § 87(2)(b) with his baton in his right hand and proceeded to swing it towards § 87(2)(b)'s body approximately seven times. Although § 87(2)(b) could not observe direct contact he stated that he could see the baton making downward swings directly to where § 87(2)(b) was.

Officer Zuccaro followed immediately behind Officer Perez. § 87(2)(b) did not know Officer Zuccaro's name at the time of the incident but described him as a 5'9"-tall, 180-pound white male. The investigation later identified this officer as Officer Zuccaro based on Officer Zuccaro's account of the incident. § 87(2)(b) stated that Officer Zuccaro was kneeling down and that it appeared the officer was driving his knee into § 87(2)(b) while moving his arms in downward swings towards § 87(2)(b). Shortly thereafter an unidentified officer described as a 5'11" tall, 200-pound, white male with black hair approached § 87(2)(b) and made four to five large swinging motions with his leg towards § 87(2)(b). Two additional unidentified officers, both described as white or Hispanic males, huddled around § 87(2)(b) although § 87(2)(b) was not able to see what their involvement entailed.

§ 87(2)(b) stated that as § 87(2)(b) was being attacked he was yelling out, "Why are you hitting me? Why are you beating me? I didn't do anything. What is this for?" § 87(2)(b) stated that although he could not see any part of § 87(2)(b)'s body when he was on the ground, "If § 87(2)(b) raised his hand, I would have seen it." Throughout the time that § 87(2)(b) was being attacked, an unidentified officer described as a 5'7" tall white or Hispanic male with a slim build and black hair was standing directly in front of § 87(2)(b) vehicle. The officer did not say anything but he drew his gun about halfway out of its holster.

After some time Officer Perez told § 87(2)(b) to move his vehicle. § 87(2)(b) pulled ahead, made a right turn onto Irving Avenue and pulled over the car. § 87(2)(b) stated that he looked back at § 87(2)(b) who was in handcuffs and whose demeanor was "shocked." Two unidentified officers walked § 87(2)(b) to a marked patrol car and threw him against it.

§ 87(2)(b) and § 87(2)(b) exited their vehicle. § 87(2)(b) talked briefly to the individual with whom § 87(2)(b) was walking, while § 87(2)(b) was addressing Officer Perez and Officer Zuccaro. § 87(2)(b) overheard § 87(2)(b) ask, "Why are you detaining this individual?" Either Officer Perez or Officer Zuccaro replied, "Because he resisted arrest and assaulted a police officer." § 87(2)(b) retorted, "That's not true. You made a mistake and you made it in front of the wrong people." The same officer asked, "Well, who are you?" § 87(2)(b) then heard § 87(2)(b) say, "Don't worry, you'll find out soon enough," before she walked away. § 87(2)(b) stated that he did not see any marks on § 87(2)(b)'s face but that his clothes and hair were disheveled.

Results of Investigation

Complainant § 87(2)(b):
§ 87(2)(b) a § 87(2)(b) old § 87(2)(b), filed her complaint by calling the CCRB directly on June 8, 2005 (Enc. 7 a-b). § 87(2)(b) provided a telephone statement on June 16 (Enc. 8) and was interviewed on June 17 (Enc. 11 a-e). § 87(2)(g)

On June 7, 2005 at approximately 6:30PM § 87(2)(b) was riding in a car with her boyfriend, § 87(2)(b). They were travelling northeast on Linden Street in Brooklyn. As § 87(2)(b) and § 87(2)(b) approached the intersection with Irving Avenue they noticed a large crowd of civilians, police officers (both in plainclothes and uniform), marked and unmarked police cars, and congested traffic. The crowd of approximately 50-100 people was situated to their left, on the west corner of Linden Street and Irving

Avenue. Through hearsay from the people near the street § 87(2)(b) learned that shots had recently been fired in the area. § 87(2)(b) stated that there were approximately fifteen officers present in total.

When § 87(2)(b) and § 87(2)(b) were approximately two-thirds of the way down the block to Irving Avenue § 87(2)(b) recognized someone he knew in the street. This person, § 87(2)(b) approached the driver's side of the vehicle. An unidentified officer instructed § 87(2)(b) to keep his car moving. § 87(2)(b) and § 87(2)(b) said "Hi" to each other and started talking as they had not seen each other in a long time. § 87(2)(b) was walking alongside § 87(2)(b) vehicle as § 87(2)(b) slowly approached the intersection. § 87(2)(b) and § 87(2)(b) both agreed that it was not the time or place to be catching up, and that they would have to speak at a later time. At the corner § 87(2)(b) attempted to make a right turn onto Irving Avenue but was forced to come to a stop because of the heavily congested traffic. § 87(2)(b) stated that § 87(2)(b) seemed to be acting normally, and that nothing seemed out of the ordinary.

When the vehicle came to a stop § 87(2)(b) was still walking alongside it. Officer O'Connor then tackled § 87(2)(b) by wrapping his arm around § 87(2)(b)'s neck from behind. § 87(2)(b) described the officer as a 5'9"-tall white male, weighing 200 pounds, and later read his name as "Zuccaro." The investigation identified this officer as Officer O'Connor based on the testimony of Officer Zuccaro and Officer O'Connor. § 87(2)(b) stated that both § 87(2)(b) and Officer O'Connor went to the ground. She was not able to see either of their bodies, as she was sitting in the passenger's seat of the vehicle. Immediately afterwards an unidentified officer described as a 5'9"-tall white male with a slim build ran over to § 87(2)(b) and began kicking him and striking him with a baton. § 87(2)(b) stated that she was not able to see contact between this officer's leg and baton but that the swinging motions of his leg and baton led her to believe § 87(2)(b) was being kicked and struck. § 87(2)(b) stated that the officer kicked § 87(2)(b) more than once and struck with his baton more than twice.

§ 87(2)(b) stated that a few seconds afterwards, five more officers, two of whom were identified through investigation as Officer Perez and Officer Zuccaro, ran over to § 87(2)(b). § 87(2)(b) identified Officer Perez by reading his nameplate during the incident. She further described him as a 5'9"-tall, Hispanic or white male with a slim build and a moustache. § 87(2)(b) described Officer Zuccaro as a 5'9"-tall, white male weighing 200 pounds. The investigation identified the officer as Officer Zuccaro based on his own admission. Officer Perez said to § 87(2)(b) "Do not move the car." The latter group of five officers huddled around § 87(2)(b). § 87(2)(b) stated that it appeared they were attempting to detain § 87(2)(b) but that it is possible the officers were punching § 87(2)(b). While § 87(2)(b) was being attacked he was yelling, "You're hurting me. What did I do?"

§ 87(2)(b) stated that she observed Officer O'Connor pick up a handcuffed § 87(2)(b) walk him over to a marked patrol car on the south corner of Irving Avenue and Linden Street (to § 87(2)(b)'s right) and shove § 87(2)(b) with two hands against the side of the car. Officer Zuccaro proceeded to frisk § 87(2)(b) and place him in the back of the RMP.

After the turn was made onto Irving Avenue § 87(2)(b) asked § 87(2)(b) to pull over to the side of the road in order to speak to the officers. As § 87(2)(b) walked over she heard a man in plainclothes stating to Officer Perez, "I am an off-duty officer, and I witnessed who fired the firearm, but he already fled." After the off duty officer left, § 87(2)(b) asked Officer Perez why he was detaining § 87(2)(b). Officer Perez stated that § 87(2)(b) had assaulted an officer and was resisting arrest. § 87(2)(b) stated that that was not what she had witnessed, and that instead she saw Office O'Connor tackle § 87(2)(b) by his neck and then six more officers join in to beat him up. When Officer Perez asked § 87(2)(b) who she was, she replied that she works § 87(2)(b) and that she would be reporting the incident to the CCRB. Officer Perez stated that § 87(2)(b) "could do whatever she wanted to," although § 87(2)(b) stated that he appeared to be upset upon hearing of her intent to file a complaint. Officer Perez then left the scene in the passenger seat of the RMP in which § 87(2)(b) was being held.

Victim § 87(2)(b) :

§ 87(2)(b) provided a telephone statement on July 7, 2005 (Enc. 10). § 87(2)(b) stated that he heard a shooting take place near the corner of Irving Avenue and Linden Street. He was walking nearby with a friend he identified only as "§ 87(2)(b)." § 87(2)(b) did not witness the shooting, and when he walked over to

see what happened, saw that the police had already arrived. As § 87(2)(b) walked through the crowd he observed his friend, § 87(2)(b) driving by in a car. § 87(2)(b) had not seen § 87(2)(b) in a while, so he went to talk to him. § 87(2)(b) and § 87(2)(b) said, "What's up" to each other before § 87(2)(b) heard an officer yelling about moving the car. § 87(2)(b) decided to talk to § 87(2)(b) later and reached into the car to give § 87(2)(b) a handshake. § 87(2)(b) then felt an arm grab around his neck and was taken to the ground by an officer. That officer and others started punching § 87(2)(b). § 87(2)(b) started asking, "What are y'all doing? What are you doing this for?" § 87(2)(b) was handcuffed, picked up, placed in an RMP and transported to the station house. § 87(2)(b) stated that he never got to see the officers who attacked him, as they approached him from behind. § 87(2)(b) stated that he received injuries to his ribs and elbows, but did not receive medical attention at the station house or at a later time.

Witnesses not Interviewed:

Fieldwork was conducted for this case on August 8, 2005. The canvass and subsequent contact with potential witnesses did not yield any statements. Witnesses identified from the Sprint report stated that they did not witness the incident in question.

Subject Officer (Police Officer Thomas O'Connor of the 83rd Precinct):

Officer O'Connor was interviewed at the CCRB on November 21, 2005. On June 7, 2005 Officer O'Connor, a 5'10" tall, 230-pound, white male, was working in uniform on patrol of sectors G and H with Officer Egan. Officer O'Connor was the recorder in RMP 1596. Officer O'Connor marked in his memo book that there was an assault in progress (shots fired) at 6:28PM at the corner of Irving and Linden. At 6:35PM Officer O'Connor marked that one individual had been placed under arrest. Officer O'Connor completed a UF-61 complaint report in connection with § 87(2)(b)'s arrest (Enc. 22 a-b). The narrative states, § 87(2)(a) 160.50

§ 87(2)(b).” The arrest report prepared by Officer O'Connor contains the same narrative (Enc. 23 a-b).

Officer O'Connor stated that he received communication of shots fired at the location in question. Officer O'Connor was one of the first officers on scene. He observed several shell casings on the ground and was first trying to locate any guns that might have been at the scene. Officer O'Connor then focused on setting up a crime scene to preserve the ballistic evidence. Officer O'Connor stated that there were approximately twenty to thirty civilians; these individuals were generally compliant with the officers' instructions.

After having been on scene for approximately one minute Officer O'Connor observed an individual later identified as § 87(2)(b). § 87(2)(b) was standing in the middle of the street, where the shell casings were laying. Officer O'Connor approached § 87(2)(b) and said, “Sir, we’re setting up a crime scene here. Would you go to the other side of the street?” § 87(2)(b) walked approximately two to three feet, but then stopped, still in the street. Officer O'Connor again approached § 87(2)(b) and told him, “You need to move to the other side of the street.” Officer O'Connor observed § 87(2)(b) walk two to three feet again before stopping to speak to a motorist. Officer O'Connor heard either § 87(2)(b) or the motorist make some sort of greeting, but he heard nothing else of the conversation.

Officer O'Connor again approached § 87(2)(b) whose back was to Officer O'Connor, and said, “I’m not going to tell you again....” At that point Officer O'Connor placed his left hand on § 87(2)(b)'s left shoulder. In response, § 87(2)(b) struck Officer O'Connor once with his left arm on Officer O'Connor's left upper body and side. Afterwards, § 87(2)(b) attempted to flee. Officer O'Connor gave chase, yelled, “You’re under arrest,” and within a few feet tackled § 87(2)(b). § 87(2)(b) fell face first. Officer O'Connor got on top of § 87(2)(b) who was flailing his arms, kicking his legs and refusing to comply with verbal commands. Moments later two or three officers assisted in restraining § 87(2)(b).

Officer O'Connor stated that he pulled one of § 87(2)(b)'s arms back, handcuffed it, and did the same to the other arm. Officer O'Connor does not know who the assisting officers were, although he stated that Officer Egan did not assist. Officer O'Connor denied that he or any officers punched, kicked or struck § 87(2)(b) with a baton or asp. Officer O'Connor stated that his baton was in his RMP at the time of this

incident and that he is not trained to use an asp. § 87(2)(b) continued to struggle after he was placed in handcuffs.

Officer O'Connor stated that § 87(2)(b) was picked up and walked to an RMP, frisked, and then placed in the rear of the RMP for transport. Officer O'Connor did not recall whether or not he did so. Officer O'Connor denied that he or another officer pushed § 87(2)(b) against the RMP. Officer O'Connor did not recall if a struggle occurred near the RMP. Officer O'Connor denied receiving any injuries and did not go line of duty. After § 87(2)(b) was taken away Officer O'Connor instructed the motorist to whom § 87(2)(b) was speaking to leave. Officer O'Connor did not have any interactions with any other motorists. Officer O'Connor did not recall if he transported § 87(2)(b) to the station house. Officer O'Connor did not recall observing any injuries on § 87(2)(b).

Subject Officer (Police Officer Bryan Zuccaro of the 83rd Precinct):

Officer Zuccaro was interviewed at the CCRB on September 23, 2005. On June 7, 2005 Officer Zuccaro, a 5'7" tall, 190-pound, white male, completed a 4:30PM to 1:05AM tour of duty with partners Officer Perez and Sergeant Zegilla. Officer Zuccaro was assigned to conditions, was in uniform and was using RMP# 5652, a marked van. Officer Zuccaro has no memo book entries pertaining to this incident.

On June 7, 2005 Officer Zuccaro responded to a report made by an off duty officer that shots had been fired. By the time Officer Zuccaro arrived with his partners a crowd of 100 to 150 civilians had already gathered at the intersection of Linden Street and Irving Avenue, where the shots were reported to have been fired from. Officer Zuccaro did not specifically recall any officers who had responded to the scene but stated it was likely that any officers on duty from his command would have responded in addition to officers in the vicinity from other commands.

Officer Zuccaro stated that the crowd was turning "violent" in that they were not responding to officers' instructions to remain clear of the crime scene, which was composed of many shell casings. After some period of time Officer Zuccaro heard from the crowd, "Oh shit, look at that!" When Officer Zuccaro turned around he observed an individual, identified through the investigation as § 87(2)(b) engaged in a fistfight with an officer identified through investigation as Officer O'Connor.

Officer Zuccaro ran towards § 87(2)(b) and tackled him to the ground by grabbing him at chest level with both arms. Officer Zuccaro stated that § 87(2)(b) resisted by kicking his legs and keeping his arms under his body. Officer Zuccaro stated that several officers approached and assisted in rearcuffing § 87(2)(b) although he was unsure of which officers specifically did so.

Officer Zuccaro did not observe any officers strike § 87(2)(b) with a baton. Officer Zuccaro stated that no officers punched or kicked § 87(2)(b) during the process of handcuffing him. Officer Zuccaro and an unidentified officer then picked § 87(2)(b) up off the ground and walked him towards an RMP that was located approximately ten feet away. Officer Zuccaro and the officer placed – but did not slam – § 87(2)(b) against the RMP; the unidentified officer frisked § 87(2)(b). § 87(2)(b) was placed inside the RMP and transported to the precinct by an unknown officer. Officer Zuccaro did not file a line of duty injury report and was not aware of any such reports filed by other officers. Officer Zuccaro stated that at the time of the incident his baton was located either in his van or his locker at the precinct station house.

Subject Officer (Police Officer Ronald Perez of the 83rd Precinct):

Officer Ronald Perez was interviewed at the CCRB on October 14, 2005. On June 7, 2005 Officer Perez, a 6'3" tall, 240-pound Hispanic male, worked an extended tour, beginning at 2:00PM and ending at 1:05AM. Officer Perez was assigned to conditions and was partnered with Officer Zuccaro and Sergeant Zegilla. Officer Perez was the operator of vehicle 5652, a marked van. Officer Perez does not have any memo book entries pertaining to this incident.

Officer Perez stated that he and his partners responded to a radio run involving shots fired. When Officer Perez arrived on scene he encountered a crowd of about 100 civilians. Officer Perez stated that it was a hot day and that many fire hydrants were open. He stated that the crowd was generally perturbed. Officer Perez stated that he was watching rooftops, as he has been in situations where individuals have thrown

objects down at the officers. Officer Perez stated that as his attention was directed at the rooftops, he heard a commotion behind him and observed Officer O'Connor engaged in a struggle on the ground with an individual identified through investigation as § 87(2)(b).

Officer Zuccaro went to assist Officer O'Connor and Officer Perez did the same. Officer Perez stated that only Officer O'Connor and § 87(2)(b) were engaged in the struggle before he and his partner assisted. Officer Perez did not know what events led up to the struggle. Officer Zuccaro approached and assisted in restraining one of § 87(2)(b)'s arms. Officer Perez instructed a nearby motorist not to move his car, as someone's leg was lying immediately in the path of the rear tire. Officer Perez did not recall if he himself had come into physical contact with § 87(2)(b) but that only he and Officer Zuccaro approached to assist with the arrest. Officer Perez stated that he might have put his hand on his gun but did not lift it.

When Officer Perez's attention was redirected from the motorists he observed § 87(2)(b) in handcuffs. § 87(2)(b) was picked up and walked over to a patrol car for transport to the 83rd Precinct. At this time Officer Perez instructed the motorists to leave the area. Officer Perez did not, nor did he observe any other officers, punch, kick, or strike § 87(2)(b) with a baton or asp. Once the motorists left the scene at his instruction Officer Perez never saw them again. Officer Perez did not observe any injuries on § 87(2)(b). Officer Perez was not aware of any officers having sustained any injuries.

Witness Officer (Sergeant John Zegilla of the 83rd Precinct):

Sergeant Zegilla was interviewed at the CCRB on October 14, 2005. On June 7, 2005 Sergeant Zegilla, a 6'3" tall, 220-pound white male, worked a 4:30PM to 1:27AM tour of duty as the conditions sergeant. Sergeant Zegilla was in uniform and partnered with Officer Zuccaro and Officer Perez; they were assigned to a marked van. Sergeant Zegilla does not have any memo book entries regarding the incident.

Sergeant Zegilla stated that he, Officer Zuccaro and Officer Perez responded to a report of confirmed shots fired near the intersection of Irving Avenue and Linden Street. When Sergeant Zegilla arrived on scene he attempted to establish a crime scene by marking off the street with tape to stop vehicular and pedestrian traffic. Sergeant Zegilla walked towards Knickerbocker Avenue to search for any incidental victims from the shooting, as it was a hot day and there were many children playing the street and people were barbecuing.

Sergeant Zegilla stated that he did not witness the incident involving § 87(2)(b). He estimated that he was fifteen to twenty car lengths away at the time. As a supervisor on scene, Sergeant Zegilla was informed of the circumstances surrounding the arrest.

Sergeant Zegilla stated that the first time he saw § 87(2)(b) he was in handcuffs, standing near the sidewalk. Sergeant Zegilla did not recall which other units had arrived; he only recalled specifically seeing his partners and Officer O'Connor. Sergeant Zegilla stated that he spoke with the off duty officer who was on scene. Sergeant Zegilla did not know the officer's name or command but stated that he drove him back to the 83rd Precinct to be interviewed by the Detective Squad.

Officers not Interviewed:

An off-duty officer named Rivera called 911 to report the shots having been fired. § 87(2)(g)

Medical Records:

§ 87(2)(b) stated that he did not receive any medical treatment for his alleged injuries.

Communications Records:

Three Sprint reports were generated from 911 calls regarding the shots fired. A male caller identified as "§ 87(2)(b)" called at 6:31PM to report that a male perpetrator wearing a black shirt was running towards Myrtle Avenue from Linden Street. Shortly thereafter, an anonymous male caller reported that he heard three or four shots fired at the corner of Irving Avenue and Linden Street. A minute later, a female caller identified as "§ 87(2)(b)" called to report that seven shots were fired. Moments later a female caller reported a

shootout at the location. She reported the perpetrator to be a Hispanic male wearing a black shirt and beige pants, running with a gun in his hand. At 6:35, a sergeant reported that no one had been shot at the scene.

At 6:31PM a male caller identified as “§ 87(2)(b)” called and reported that five shots had been fired. He stated that a male Hispanic wearing a red shirt and blue shorts and two male Hispanics in white shirts were running.

At 6:33PM a male caller who identified himself as an off-duty member of the service named “Rivera” reported that one shot had been fired by a male Hispanic wearing a black shirt and beige shorts. Rivera reported that the perpetrator fled in a tan sedan, towards Queens.

NYPD Documents:

In addition to the narrative, the arrest report indicates that physical force was used to restrain § 87(2)(b) and that § 87(2)(b)'s physical condition was “apparently normal” (Enc. 23 a-b).

The 83rd Precinct’s command log indicates that at 6:40PM on June 7 § 87(2)(b) was brought before the desk for arrest processing (Enc. 24). His physical condition was listed as “appears normal.”

OCA records pertaining to § 87(2)(b) s June 7 arrest:

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian Histories:

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Officer Histories:

In his ten-year tenure with the NYPD, Officer O’Connor has received no prior substantiations from the CCRB (Enc. 2). Neither Officer Zuccaro nor Officer Perez has received any prior complaints during their respective three-year tenures with the NYPD (Enc. 3-4).

Conclusions and Recommendations

Facts not in Dispute:

It is not in dispute that in response to several gunshots having been fired, officers from the 83rd Precinct arrived at the corner of Irving Avenue and Linden Street. A sizeable crowd gathered as the officers attempted to establish and preserve a crime scene. In doing so, Officer O’Connor encountered § 87(2)(b) who was standing in the street. Officer O’Connor approached § 87(2)(b) and a physical altercation ensued. Officer O’Connor, with the assistance of Officer Perez, Officer Zuccaro and several unidentified officers, used physical force to restrain § 87(2)(b) and place him under arrest. Officer Zuccaro picked § 87(2)(b) off of the ground and walked him to an RMP. Officer Zuccaro frisked § 87(2)(b) against the RMP, then placed him in the rear seat for transport to the 83rd Precinct station house.

Facts in Dispute:

§ 87(2)(g) § 87(2)(b), § 87(2)(b) and § 87(2)(b) provided accounts in which Officer O’Connor ran towards § 87(2)(b) from behind and tackled him to the ground by wrapping an arm around his neck. According to their accounts, Officer O’Connor, Officer Perez, and Officer Zuccaro punched § 87(2)(b) repeatedly. § 87(2)(b) and § 87(2)(b) also alleged that an officer kicked § 87(2)(b) and struck him with a baton. On the other hand, the accounts of Officer O’Connor, Officer Zuccaro and Officer Perez indicate that § 87(2)(b) struck his arm at Officer O’Connor, who then tackled § 87(2)(b) to the ground as he tried to flee. § 87(2)(g)

Furthermore, § 87(2)(b) and Officer Zuccaro alleged that Officer Zuccaro shoved a rearcuffed § 87(2)(b) into an RMP after his arrest, while the aforementioned officers deny such force was used.

Officer Identification:

The investigation identified the first officer to have contact with and tackle § 87(2)(b) as Officer O'Connor largely by his own admission of having done so. Although Officer Zuccaro stated that he, in fact, tackled § 87(2)(b) he stated that he did so in response to observing § 87(2)(b) engage Officer O'Connor in a fist fight. § 87(2)(b) and § 87(2)(b) were watching § 87(2)(b) who was a mere six inches from their car, and made no mention of such a fistfight. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Officer Zuccaro was identified as one of the several officers who assisted Officer O'Connor in detaining § 87(2)(b). Officer Zuccaro confirmed that he assisted in handcuffing § 87(2)(b).

§ 87(2)(b) further identified Officer Perez as assisting officer by name and provided a description matching Officer Perez's pedigree information. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) attributed this allegation to Officer Zuccaro specifically, whereas § 87(2)(b) stated that another officer had done so. Officer Zuccaro stated that he did not have his baton in his possession at the time of the incident. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

The investigation identified Officer Zuccaro as the officer who allegedly shoved § 87(2)(b) against the RMP. Officer Zuccaro confirmed that he walked § 87(2)(b) to the RMP with the assistance of an unidentified officer. § 87(2)(b) stated that Officer Zuccaro was the officer who pushed § 87(2)(b). She identified Officer Zuccaro by name and provided a description matching that of Officer Zuccaro. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Credibility Analysis:

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Officer Zuccaro stated that Officer O'Connor and § 87(2)(b) were engaged in a fistfight. No other party interviewed mentioned such an altercation, nor does the arrest report. Furthermore, Officer Perez stated that he did approach § 87(2)(b) and assist in effecting the arrest, although he could not recall if he came into physical contact § 87(2)(b).

Allegations:

Allegation A) Force: Police Officer Thomas O'Connor used physical force against § 87(2)(b)

Allegation B) Force: Police Officer Bryan Zuccaro used physical force against § 87(2)(b)

Allegation C) Force: Police Officer Ronald Perez used physical force against § 87(2)(b)

Allegation D) Force: Officers used physical force against § 87(2)(b)

§ 87(2)(g) § 87(2)(b) and § 87(2)(b) allege that the officers used excessive force by punching, kicking and striking § 87(2)(b) with a baton. Officer O'Connor, Officer Perez and Officer Zuccaro deny that such a level of force was employed. § 87(2)(b), § 87(2)(g)

Patrol Guide procedure 203-11 indicates: "Only that amount of force necessary to overcome resistance will be used to effect an arrest or take a mentally ill or emotionally disturbed person into custody" (Enc. 1). § 87(2)(b), § 87(2)(g)

Allegation E) Force: An officer struck § 87(2)(b) with a baton.

§ 87(2)(b) and § 87(2)(b) allege that an officer struck § 87(2)(b) several times with a baton. Officer O'Connor, Officer Perez and Officer Zuccaro did not observe any officer do so. During the telephone statement, § 87(2)(b) did not allege that any officer struck him with a baton. § 87(2)(b), § 87(2)(g)

Allegation F) Force: Police Officer Bryan Zuccaro used physical force against § 87(2)(b)

§ 87(2) § 87(2) alleges that Officer Zuccaro – whom she identified by reading his nameplate – pushed § 87(2)(b) while he was rearcuffed into an RMP. Officer Zuccaro denied doing so, and other officers denied witnessing such an incident. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: